**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE**
**AND**
**HON'BLE SHRI JUSTICE G.V.SEETHAPATHY**

**WRIT PETITION NO.14643 OF 2006**

Between:

M/s.Padhuka Foot World
. . .Petitioner

AND

The Commissioner,
Kukatpally Municipality,
Ranga Reddy District
. . .Respondent

Counsel for the Petitioner : Shri A.K.Narasimha Rao

Counsel for the Respondent : Shri P.Radhakrishna

**Dated: 14th September, 2006**

**: ORDER :**

**PER G.S.SINGHVI, CJ**

In this petition, the petitioner has prayed for quashing notice dated 16.05.2006 issued by Commissioner, Kukatpally Municipality, Ranga Reddy District (respondent herein) requiring the petitioner to remove unauthorized construction raised in premises No.2-22-274/1 situated at Bhagyanagar colony, Kukatpally, Ranga Reddy district.

In the affidavit filed by Shri V.Harish Babu, representative of the petitioner, it has been averred that he is the tenant of Alina Devi, who owns H.No.2-22-274/1, Bhagyanagar colony, Kukatpally. The said Alina Devi is reported to have purchased the property from A.S.Raju and others who had constructed a commercial complex consisting of cellar, stilt, four upper floors after obtaining the sanctioned plan. Shri Harish Babu has further averred that O.S.No.217 of 1997 filed by the owner in the Court of Principal Junior Civil Judge, West and South, Ranga Reddy District, for grant of permanent injunction was decreed on 22.01.1998, but ignoring the said decree, the respondent issued the impugned notice. His grievance is that before calling upon him to remove the alleged illegal construction, the respondent did not give him notice and opportunity of hearing.

We have heard learned counsel for the parties and perused the record. The petitioner has made reference to a number of documents including the sanctioned plan and has averred that the construction

made by the owner is not in violation of the sanctioned plan, but without giving him notice and opportunity of hearing, the respondent ahs directed demolition of the property.

Since the respondent has not denied the assertion of the petitioner that the impugned notice was issued without complying with the rules of natural justice, we feel that ends of justice would be met by giving liberty to the petitioner to appear before the Commissioner and produce all the documents to show that he and the owner have not made any unauthorized construction with a further direction to the Commissioner to decide the same within a specified time frame.

Hence, the writ petition is disposed of with the following directions:

1) Within seven days from today, the petitioner shall appear before the Commissioner and produce all documents to show that he and the owner have not raised any construction in violation of the sanctioned plan. He shall also be free to raise all legally permissible objections against notice dated 16.05.2006.
2) Within next two weeks, the Commissioner shall consider the objections and documents produced by the petitioner, hear him and pass appropriate order.
3) If the Commissioner comes to the conclusion that the petitioner has made unauthorized construction or any deviation has been made from the sanctioned plan, then he may order demolition of such illegal or unauthorized construction. However, such order shall not be given effect for a period of seven days within which the petitioner shall be free to avail appropriate legal remedy including the one by way of

filing fresh petition.

Since the notice impugned in the writ petition was issued in furtherance of the direction given by the Division Bench, we direct that in future, the writ petitions filed in the matter of removal of unauthorized structure or illegal construction shall be listed before the Division Bench as per roster.

We also deem it proper to observe that before issuing notice for demolition, the concerned authorities of the municipality should comply with the rules of natural justice. This would go a long way to obviate unnecessary litigation.

**G.S.SINGHVI, CJ**

**G.V.SEETHAPATHY, J**

Date: 14.09.2006

Kvni/bsc

Note: The Court Officer is directed to give attested copies of this order to the learned counsel for the parties.